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## **SECTION II** **REMARKS**

### **Regarding the Amendments**

Claims 1, 9, and 11 have been amended as set forth in the above Complete Listing of the Claims. New claim 12 has been added. As amended, the claims are supported by the specification and the original claims. No new matter has been added, as defined by 35 U.S.C. § 132.

Specifically, amendment of claims 1 and 11 to add language regarding the flat side of the first projection is found in the figures as filed, specifically Figs. 2, 3, 4, and 5, showing the upper side of the projection as flat. Additionally claims 1 and 11 have been amended to recite that the joint locks into place "without clearance," which is supported in the specification at page 6, second paragraph, last sentence, in the paragraph bridging pages 6-7, discussing contact point 45, and in Figs. 3 and 5.

Thus, upon entry of the amendments, claims 1-12 will be pending.

### **Power of Attorney**

Enclosed and submitted herewith is a Power of Attorney to Prosecute Applications before the USPTO (Form PTO/SB/80), and a Statement Under 37 CFR 3.73(b) (Form PTO/SB/96) for the above-identified U.S. patent application.

### **Rejection of Claims 1-11 Under 35 U.S.C. §112**

The examiner has rejected claims 1-11 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully submits that, as set forth above, pending claims 1-12 are definite under the requirements of 35 U.S.C. §112, second paragraph.

Claims 1-10 are alleged to be indefinite for recitation of the claim language "and/or" in claim 1. By the present amendment, removal of the "and/" portion of the term is requested, such that the term is simply "or." It is respectfully submitted that the amended claim is clear.

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Claim 1 is alleged to be indefinite for recitation of the claim language "groove joint the tongue." By the present amendment, insertion of a semicolon is requested between the terms "groove joint" and "the tongue." As amended, the rejected language is clearly separated into two distinct phrases.

Claim 9 is alleged to be indefinite for recitation of the claim language "or the like." Such language has been removed from the claim by the present amendment.

Claim 11 is alleged to be indefinite for recitation of the claim language "A interlocking." By the present action, amendment of "A" to "An" is requested. As amended, the language of the claim is proper English.

As amended, all of pending claims 1-12 are in compliance with the requirements of 35 U.S.C. §112, second paragraph. Accordingly, withdrawal of the examiner's rejection of claims 1-11 as indefinite under 35 U.S.C. §112, second paragraph is respectfully requested.

#### **Rejection of Claims 1-11 Under 35 U.S.C. §102**

The Examiner has rejected claims 1-11 as being anticipated under 35 U.S.C. §102(b) by Ostrovsky (GB2117813; hereinafter "Ostrovsky"). Applicants respectfully disagree.

Anticipation of a claim requires the disclosure in a single prior art reference of each element of the claim under consideration. (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) It is respectfully submitted that Ostrovsky does not disclose all elements of the claimed invention.

The present claims recite a panel element containing both a first longitudinal side having a tongue and a second longitudinal side opposite the first longitudinal side, having a groove. Additionally, the tongue has first and second projections, where the first projection of the tongue has "a flat side facing the utilization side and extending outwardly" and the second projection of the tongue is locked with the third projection of the groove in a connected state, without clearance. This locking without clearance is described in the paragraph bridging pages 6 and 7 of the specification, where it is detailed that the first region of the second projection and the

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fourth region of the third projection are joined to form a contact point (45), or "without clearance."

These characteristics of the claimed panel allow for joining of two of the claimed panels in a connected state that is rigid, i.e. the panels cannot move against one another. This can be seen in detail in Figs. 3 and 5, where there is no space between the panels at contact point 45. Additionally, the flat side of the tongue (2) forms contact point 42 with the groove (3). Presence of at least one contact point on each of the first and second projections, allows for distribution of forces toward the utilization side, avoiding development of a single stress point in the connection between the panels. Without such a single stress point, it is easier to achieve a system of two or more connected panels with utilization sides that are at equal vertical distance from the ground level, resulting in a floor system that is flat and free of bulges, folds, buckles and the like.

Ostrovsky, however, describes a joint assembly that is comprised of a pair of strips, it does not comprise a single panel, as in the claimed invention, with a longitudinal side having a tongue and a second longitudinal side opposite the first longitudinal side, having a groove. Ostrovsky does not describe a single panel which can be locked together with another similar panel element, such as is recited in claims 1-11 of the present application. Instead, Ostrovsky describes a pair of strips, one male and one female, each containing foam insulation material on the side opposite the joint-forming side.

Additionally, Ostrovsky discloses a joint assembly, wherein the tongue and groove corresponding thereto are curved about an axis to allow a pivotal movement of the joined edges (see page 2, lines 101-123, Figures 1 and 2). As shown in Figs. 1 and 2 of Ostrovsky, that assembly has a curved tongue (27) and a pivotal body (23). Accordingly, even once joined, the strips of Ostrovsky are freely moveable around the pivotal axis and must be arrested with an additional locking strip (see page 1, lines 104-110, Figure 2). As such, the strips of Ostrovsky can be variously oriented and are positioned with the placement of the locking strip (see page 1, lines 95-103). Clearly Ostrovsky does not provide a panel with a tongue with a first projection that has "a flat side facing the utilization side and extending outwardly," as in claims 1 and 11.

Furthermore, on the joined strips of Ostrovsky, the surfaces indicated as 14 and 17 in the figures and on page 2, lines 41-64, are not in contact with one another, as each is covered by a metal skin. Accordingly, Ostrovsky does not provide a panel where the second projection of the tongue

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is locked with the third projection of the groove in a connected state, "without clearance," as in claims 1 and 11.

Ostrovsky does not describe a single panel that, when joined with a second similar panel, forms a rigid connection, such as a panel recited in claim 1. Therefore, Ostrovsky does not disclose all elements of claim 1 and claims 2-10 and 12, dependent therefrom. Withdrawal of the rejection of claims 1-10 and 12 as anticipated under 35 U.S.C. §102(b) by Ostrovsky is respectfully requested.

Claim 11 of the present invention recites an interlocking floor system comprising at least two panel elements, wherein each panel comprises the same recited elements. As in the panel of claim 1, the system of claim 11 comprises a panel where the first longitudinal side of one panel and the second longitudinal side of a second, similar panel can be locked together to form a system of utilization sides. The pair of strips of the joint assembly of Ostrovsky, however, are two different strips, one male and one female, each secured to insulated wall panels (11). Such insulated wall panels do not provide a utilization side as recited in the claimed invention. Furthermore, Ostrovsky has no ability to provide for more than two strips to be joined together, where the system of claim 11 comprises at least two panel elements.

Additionally, a search of the Ostrovsky reference for the term "floor" reveals no description of the use of the described strips as a floor system. Ostrovsky does not describe an interlocking floor system as recited in claim 11, comprising panels as described in claim 11. Accordingly, Ostrovsky does not anticipate claim 11.

As Ostrovsky does not describe panels or an interlocking floor system as set forth in claims 1-11, Ostrovsky does not anticipate the claimed invention. Accordingly, withdrawal of the rejection of claims 1-11 under 35 U.S.C. § 102 (b) as being anticipated by Ostrovsky is respectfully requested.

#### **Fees Payable for Added Claims**

By the present Amendment, 1 new dependent claim (claim 12) has been added, bringing the total number of pending claims in the application to 12. As the present number of independent claims does not exceed 3 and the total number of claims does not exceed 20, it is believed that no

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additional fees are due for addition of new claim 12. However, should any fees be required please debit our Deposit Account No. 08-3284, as necessary.

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**CONCLUSION**

Based on the foregoing, all of Applicants' pending claims 1-12 are patentably distinguished over the art, and are in form and condition for allowance. The Examiner is requested to favorably consider the foregoing and to responsively issue a Notice of Allowance.

The time for responding to the April 10, 2007 Office Action without extension was set at three months, or July 10, 2007. Applicants hereby request a one (1) month extension of time under 37 C.F.R. § 1.136 to extend the deadline for response to and including August 10, 2007. Payment of the extension fee of \$120.00 specified in 37 C.F.R. § 1.17(a)(1), as applicable to an entity other than a small entity, is authorized by the enclosed Credit Card Payment Form PTO-2038. Should any additional fees be required or an overpayment of fees made, please debit or credit our Deposit Account No. 08-3284, as necessary.

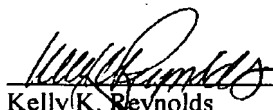
If any issues require further resolution, the Examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss same.

Respectfully submitted,



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Date: August 8, 2007



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Date: August 9, 2007

**Enclosures:**

Credit Card Payment Form PTO-2038 [1 page]

Power of Attorney to Prosecute Applications before the USPTO Form PTO/SB/80 [1 page]

Statement Under 37 C.F.R. §3.73(b) Form PTO/SB/96 [1 page]

The USPTO is hereby authorized to charge any deficiency or credit any overpayment of fees properly payable for this document to Deposit Account No. 08-3284